

REMARKS

Allowance of Claim 7

Applicants wish to thank the Examiner for indicating that the subject matter of claim 7 would be allowable if rewritten in independent form.

The Section 103 Rejections

Claims 1-6 and 8-37 were rejected under 35 U.S.C. §103(a) as being unpatentable over Levandovsky et al., U.S. Patent Publication No. 2002/0063915 ("Levandovsky") in view of an article by Banerjee et al. ("Banerjee").

Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Each of the claims of the present invention requires: (a) the assignment of one or more wavelengths based on wavelength performance data; or (b) the establishment of a connection based on such data; or (c) the selection of a path based on such data; or (d) the maintenance of performance data. As indicated by the Examiner, Levandovsky does not disclose the claimed assignment of wavelengths; nor does Levandovsky disclose or suggest features (b)-(d).

To overcome these deficiencies the Examiner relies on the Banerjee article.

However, instead of disclosing or suggesting the assignment of wavelengths based on wavelength performance data, Banerjee assigns wavelengths based on the number of nodes in a network. That is, Banerjee appears to disclose the assignment of a minimum number of wavelengths that

includes all of the nodes of a given optical network. There is no disclosure or suggestion in Banerjee that the assignments are based on wavelength performance data, as in the claims of the present invention. Nor is there any disclosure or suggestion in Banerjee of the establishment of a connection path or the selection of such a path based on wavelength performance data. Finally, Banerjee does not disclose or suggest the maintenance of performance data, as in the claims of the present invention.

Accordingly, Applicants respectfully submit that the claims of the present invention would not have been obvious to one of ordinary skill in the art at the time the present application was filed based on a reading of the disclosures in Levandovsky, taken separately or in combination with Banerjee because such a combination does not disclose or suggest the assignment of wavelengths, the establishment of a connection, the selection of a path nor the maintenance of wavelength performance data, as in the claims of the present invention.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1-6 and 8-37.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By

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